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07 OCT 17 AM 10:22

CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

'07 MJ 2477

DEPUTY

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA
vs.
Rafael LUNA

) Magistrate's Case No.

) COMPLAINT FOR VIOLATION OF
21 U.S.C. 952 and 960

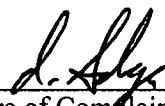
) Unlawful Importation of a Controlled Substance

The undersigned complainant being duly sworn states:

COUNT ONE

That on or about October 16, 2007, within the Southern District of California, defendant Rafael LUNA did knowingly and intentionally import approximately 38.70 kilograms (85.14 pounds) of methamphetamine, a Schedule II Controlled Substance, into the United States from a place outside thereof; in violation of Title 21, United States Code, Sections 952 and 960.

And the complainant states that this complaint is based on the attached statement of facts, which is incorporated herein by reference.



Signature of Complainant
U.S. Immigration and Customs Enforcement

Sworn to before me and subscribed in my presence, this 17th day of October, 2007.



United States Magistrate Judge

1 United States of America
2 VS.
3 Rafael LUNA

4 PROBABLE CAUSE STATEMENT

5 On October 16, 2007 at approximately 1705 hours, Rafael LUNA attempted to enter the
6 United States from Mexico at the San Ysidro Port of Entry (SYSPOE), San Diego, California in
7 a Hyundai Accent bearing no license plates. During pre-primary operations at the SYSPOE, a
8 Customs and Border Protection Officer (CBPO), made contact with LUNA. The CBPO
9 approached LUNA's vehicle because LUNA was visually tracking the CBPO's movements as he
10 walked out to pre-primary. The CBPO observed LUNA choke up on the steering wheel of the
11 vehicle and stiffen up as the CBPO turned to walk in his direction. The CBPO approached
12 LUNA and asked LUNA how he was doing. LUNA responded abruptly and stated he was good.
13 The CBPO asked LUNA what he was bringing back from Mexico and LUNA stated he wasn't
14 bringing anything back from Mexico except for a large wall crucifix ornament of Jesus Christ he
15 had sitting in the backseat. LUNA stated he had owned the vehicle for about a month. The
16 CBPO asked LUNA what he was doing in Mexico and LUNA stated he has a girlfriend in
17 Mexico he was visiting. LUNA then stated he was going to Pico Rivera, CA where he lives. It
18 was at this time LUNA became nervous and jittery as the CBPO knocked on the quarter panels
19 of the vehicle, which sounded solid to the CBPO. The CBPO asked LUNA again if he was
20 bringing anything back from Mexico and LUNA said in a cracking voice, "nothing, why?" The
21 CBPO began a cursory inspection of the vehicle. During the inspection, the CBPO had LUNA
22 open the passenger side door. The CBPO looked through the hole where the seat belt comes out
23 of the quarter panel and observed what appeared to be packages wrapped in brown packaging
24 tape. The CBPO immediately handcuffed LUNA and escorted him into the security office for a
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1 patdown. As the CBPO was escorting LUNA in handcuffs, he noticed LUNA's hands were
2 shaking and very sweaty. As the CBPO brought LUNA into the security office, LUNA remained
3 very quiet and was still displaying signs of nervousness. A Canine Enforcement Officer's (CEO)
4 Narcotic/Human Detector Dog (NHDD) alerted to narcotic odor emitting from LUNA's vehicle.
5 The vehicle was driven into the secondary lot for further inspection.

6
7 A Customs and Border Protection Officer (CBPO) conducted an intensive inspection on
8 the Hyundai. A total of 29 packages containing approximately 38.70 kilograms of
9 methamphetamine were found concealed within the vehicle. A presumptive test of one of the
10 packages revealed a positive reaction to the presence of methamphetamine.

11 LUNA stated post-miranda he was going to an auto parts store in San Ysidro, CA to buy
12 a filter and oil for the transmission to his vehicle. LUNA stated he was not meeting anyone
13 there. LUNA stated after buying those items he was going to return back to Mexico. LUNA was
14 then going to call his mechanic in Tijuana, MX right away so the mechanic could fix his vehicle
15 with the parts he just bought. LUNA stated he had owned the vehicle for three weeks. LUNA
16 stated he bought the vehicle at an auction in Mexico for \$800 USD. LUNA stated he has no idea
17 how the drugs got into his vehicle. LUNA stated he is the only one besides his wife that drives
18 the vehicle. LUNA stated he has never let anyone else, besides his wife, drive or borrow the
19 vehicle. LUNA stated the vehicle was at his house all day today (Oct.16) prior to crossing the
20 border with it.
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23 LUNA was arrested and charged with violation of Title 21 USC 952, 960, Unlawful
24 Importation of a Controlled Substance, and were booked into the Metropolitan Correction
25 Center, San Diego, CA.
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